

RESOLUTION NO. 74539

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ SUMMARILY VACATING THE PUBLIC SERVICE EASEMENT LYING WITHIN LOT 6 AND 7 OF TRACT 2887, APN 486-38-048 LOCATED ON THE SOUTH SIDE OF STORY ROAD BETWEEN JACKSON AVENUE AND LEEWARD DRIVE

WHEREAS, subdivision (a) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a public service easement if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

WHEREAS, the City Council intends to summarily vacate the Public Service Easement (hereinafter the "Easement") constituting all that real property situated in the City of San José, County of Santa Clara, State of California, more particularly described as:

BEING A PORTION OF THE PARCEL OF LAND DESCRIBED IN THE DEED OF TRUST TO TRANG KIM NGUYEN RECORDED AS DOC. SERIES NO. 18212464, FEBRUARY 1, 2005 IN THE OFFICE OF THE SANTA CLARA COUNTY RECORDER, STATE OF CALIFORNIA, FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF SAID NGUYEN PARCEL AS DESCRIBED ABOVE, SAID POINT OF COMMENCEMENT ALSO BEING THE MOST NORTHERLY CORNER OF LOT 8, AS SAID LOT IS SHOWN ON THE MAP OF TRACT NO 2887 RECORDED SEPTEMBER 27, 1960 IN BOOK 138 OF MAPS AT PAGE 32;

THENCE LEAVING SAID POINT OF BEGINNING SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SAID NGUYEN PARCEL ALSO BEING THE SOUTHEASTERLY LINE OF STORY ROAD, SOUTH 49° 38'15" WEST, 96.00 FEET TO THE TRUE POINT OF BEGINNING FOR THE HEREIN DESCRIBED STRIP OF LAND;

THENCE, LEAVING SAID SOUTHEASTERLY LINE OF STORY ROAD SOUTHEASTERLY, COINCIDENT WITH AND ALONG THE NORTHEASTERLY LINE OF THE EXISTING 4 FEET P.S.E. LYING 4 FEET NORTHEASTERLY OF AND PARALLEL WITH THE SOUTHWESTERLY LINE OF LOT 7 AS SHOWN ON THE MAP OF TRACT 2887 (138/M32) SOUTH 40°21'45" EAST, 98.00 FEET;

THENCE, LEAVING SAID LINE, SOUTH 49°38'15" WEST, ALONG THE SOUTHEASTERLY LINE OF LOTS 7 AND 6 (138M32), 8.00 FEET TO THE SOUTHWESTERLY LINE OF THE 4 FOOT IN WIDTH P.S.E. LYING 4 FEET SOUTHWESTERLY OF AND PARALLEL WITH THE NORTHEASTERLY LINE OF LOT 6 ;

THENCE, NORTHWESTERLY COINCIDENT WITH AND ALONG SAID EXISTING 4 FEET P.S.E. NORTH 40°21'45" WEST, 98.00 FEET TO THE SOUTHWESTERLY LINE OF STORY ROAD;

THENCE, NORTH 49°38'15" EAST, 8.00 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 784 SQUARE FEET MORE OR LESS.

WHEREAS, on June 30, 2008, the Director of the Department of Public Works approved that certain map entitled "Plat Map Showing The Public Service Easement Within Lots 6 And 7 Of Tract 2887, APN 486-38-048 To Be Vacated" showing the public service easement that the City Council intends to summarily vacate (hereinafter "Map"); and

WHEREAS, attached to this Resolution as Exhibit "A" is a copy of the report, dated July 21, 2008, that the Director of the Department of Public Works submitted to the City Council setting forth the reasons justifying the summary vacation of the Easement (hereinafter "Report").

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ THAT:

SECTION 1. The City Council hereby adopts the Report and, based upon the Report and all other evidence submitted, makes the following findings:

1. The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately prior to August 12, 2008; and
2. No public facilities are located within the Easement that would be affected by a summary vacation; and
3. The Easement is not needed for present or prospective public facilities; and
4. The public convenience and necessity does not require reservation of any portion of the Easement.

SECTION 2. Based upon the findings made in Section 1 of this Resolution and the provisions of sub-section (a) of Section 8333 of the Streets and Highways Code, the City Council does hereby order that the subject portion of the Easement shall be and hereby is summarily vacated,

SECTION 3. The City Clerk is hereby directed to record at Santa Clara County Records this Resolution, including Exhibit "A" hereto, and the Map.

SECTION 4. The subject portion of this Easement will no longer constitute a Public Service Easement from and after the date of recordation of the documents identified in Section 3 of this Resolution.

ADOPTED this 12th day of August, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,
LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS;
REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk